IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 9673 of 2005

Between:

Kilari Srinivasulu Naidu, S/o. Chandraiah
R/o. Ediga Palli (V), Chinnam Palli (PO), Obulavari palli (M),

Kadapa District.

..... PETITIONER

AND

1 The District Collector, Kadapa District.
2 The Revenue Divisional Officer, Rajampet, Kadapa District.
3 The Mandal Revenue Officer, Obulavaripalli Mandal, Kadapa District.
4 The Asst. Engineer, A.P. Transco, Korlakunta Village, Obulavaripalli

Mandal, Kadapa District.
5 Sri Kilari Venkateshwara Naidu S/o. Narasaiah Naidu
R/o. Vasudeva Puram (V), Obulavaripalli (M), Kadapa DIstrict.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the inaction of the official Respondents to seize and close the 5th Unofficial Respondents borewell which was dug without permission and against provisions of the Water, Land & Trees Act, 2002 as illegal and arbitrary and direct the official Respondents to close the said borewell of the 5th Unofficial Respondent permanently.

Counsel for the Petitioner: MR.P.VENKAT RAO

Counsel for the Respondent Nos.1 to 4 : GP FOR REVENUE

Counsel for the Respondent No.4: Sri M. Sreeramulu Reddy.

Counsel for the Respondent No.5: ---

The Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking to declare the inaction of the official respondents to seize and close the fifth respondent's bore-well which was dug without permission and against the provisions of the Water, Land and Trees Act, 2002 as illegal and arbitrary and consequently to direct the official respondents to close the said bore-well of the fifth respondent permanently.

The petitioner is having an agricultural land in Sy.No.20P, Peddabarampadu of Rajampet and is cultivating the said land. He dug a bore-well ten years ago for the purpose of cultivation as well as for drinking. While so, on 03-04-2005, the fifth respondent dug another bore-well unauthorisedly, without obtaining prior permission from the competent authority and without keeping the required distance as per the Statute, due to which the petitioner is unable to draw even minimum water from his bore-well. It is stated that the petitioner reported the matter to the third respondent, who, in turn, visited the site and gave assurance to the petitioner that the bore-well of the fifth respondent would be seized. On 07-04-2005, the third respondent seized the bore-well of the fifth respondent in the

presence of the Police Constable and other employees of the Electricity Department. Subsequently, the fifth respondent approached the second respondent, who permitted him to reopen the bore-well for one week. Since then the fifth respondent is using the said bore-well, which is causing inconvenience to the petitioner. It is further stated that the on 14-04-2005, the petitioner made a representation before the first respondent, who in turn, sent the second respondent for enquiry. Though the second and third respondents conducted enquiries on 16-04-2005 and 18-04-2005, respectively, no action has been taken so far. Hence, the writ petition.

Heard both the learned counsel and perused the material available on record.

The material on record goes to show that certain procedure has not been followed while digging the bore-well-in-question. The question as to whether the bore-well-in-question has been dug after following the procedure and after obtaining permission from the authorities concerned is a matter to be decided by the respondent authorities. Therefore, the issue involved is within the domain of the authorities concerned to resolve the same and hence, this Court cannot invoke the jurisdiction under Article 226 of the Constitution of India. However, it is brought to the notice of this Court that the petitioner has submitted a representation, dated 14-04-2005, and the same is pending.

In view of the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it appropriate to direct the respondents to dispose of the representation, dated 14-04-2005, submitted by the petitioner, keeping in view the directions of this Court in W.P.No.10892 of 2005.

The writ petition is accordingly disposed of directing the respondents to consider the representation, dated 14-04-2005, submitted by the petitioner and pass appropriate orders, in accordance with law, keeping in view the directions of this Court in W.P.No.10892 of 2005. No costs.

(ELIPE DHARMA RAO, J)

Date:11-07-2005

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To

1 The District Collector, Kadapa District.
2 The Revenue Divisional Officer, Rajampet, Kadapa District.
3 The Mandal Revenue Officer, Obulavaripalli Mandal, Kadapa District.
4 The Asst. Engineer, A.P. Transco, Korlakunta Village, Obulavaripalli

Mandal, Kadapa District.
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